



E-MAIL RETENTION BEST PRACTICE

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Intent and Purpose:

The intent of this best practice is for county officials to have an educational mechanism to explain requirements for maintaining electronic records with emphasis on electronic mail (e-mail) messages that meet the criteria for records as defined by the Ohio Revised Code.

This best practice has a two-fold purpose. First, it is intended to assist stark county agencies in complying in their use of e-mail with Ohio public records law. Second, it will promote the best practices and suggestions that facilitate the effective capture, management, and retention of electronic messages/records and public records.

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Introduction:

Electronic mail systems, commonly called e-mail, are the communications method of choice for most of Stark County public officials and their public employees. E-mail messages are often used as communication substitutes for the telephone as well as to communicate substantive information previously committed to paper and transmitted by more traditional methods. This combination of communication and record creation/keeping has created ambiguities on the status of e-mail messages as records.

The management of e-mail systems touches on nearly all functions for which Stark County government agencies are dependent on recordkeeping: privacy, administration, vital records management, administrative security, auditing, access, and archives. The need to manage e-mail messages and systems properly, then, is the same as for other records keeping systems -- to ensure compliance with Ohio and Federal laws concerning the creation of, retention of, and access to public records.

Stark County agencies that use e-mail have an obligation to ensure that employees are aware that e-mail messages, like paper records, must be retained and destroyed according to the established records management procedures (general retention schedule). Stark County agencies should set-up or modify e-mail systems to facilitate electronic records management.

This best practice is based partly upon work done by the Maine State Archives, Delaware State Archives, Florida Department of State and OhioERC. Their work is included here with their kind permission. I appreciate their expertise and generosity.

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Definitions:

E-mail systems are store-and-deliver software systems that transport messages from one computer user to another.

E-mail messages are electronic documents created and sent or received by a computer system. This definition applies equally to the contents of the communication, the transactional information, and any attachments associated with such communication. Thus, e-mail messages are similar to other forms of communicated messages, such as correspondence, memoranda, and circular letters.

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Legal Requirements:

The Ohio Revised Code (ORC) includes no specific definition for electronic mail; however, ORC Section 149.011 (G) provides the following definition:

“Records” include any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

Clearly, an e-mail message is a document or item created or received by a public office. Whether the e-mail serves to document the organization, functions, policies, decisions, procedures, operations or other activities is the deciding factor as to its status as a record. This is true of any communication, whether electronic or paper.

E-mail messages that meet the criteria of the definition of a record must be scheduled and retained for the appropriate retention period before disposition. Scheduling e-mail is discussed in detail below.

E-mail messages that meet the criteria of the definition of a record may be considered public records and must be available to the public. A record must meet the definition of public record as defined in the Ohio Revised Code. This definition is found in ORC Section 149.43, which states in part:

Public record means any record that is kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, except that public record does not mean any of the following: medical records...

All public records shall be made promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B) (4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in such a manner that they can be made available for inspection in accordance with this division.

As with any format, an e-mail message is considered a public record unless it falls under one of the exceptions listed in Section 149.43. These records must be maintained and made accessible to the public upon request through the appropriate retention period that is stated in the Stark County General Retention Schedule.

Retention and Scheduling Requirements

E-mail itself is not considered a records series or category. It is a means of transmission of messages or information. Like paper or microfilm, e-mail is the medium by which this type of record is transmitted. Stark County agencies either have a specific retention schedule for their agency/department or use the general retention schedule that is approved for all Stark County agencies/departments. The schedules have numerous records series listed on each schedule and have various retention periods that are dependent on the individual record series. The agency cannot list all records series under a single retention period, an agency cannot simply schedule e-mail as a record series. E-mail messages must be related to the information they contain or the purpose they serve. The content, transactional information, and any attachments associated with the message are considered a record (if they meet the ORC criteria). The content of e-mail messages may vary considerably, and therefore, this content must be evaluated to determine the length of time the message must be retained.

Simply backing up the e-mail system onto tapes or other media or purging all messages after a set amount of time are not appropriate strategies for managing e-mail.

For the purposes of this best practice, we will use four categories of e-mail retention: non-record, transitory messages, intermediate messages and permanent messages. I define each of the categories more in depth below.

Non-Record Material:

E-mail messages that do not meet the criteria of the Ohio Revised Code definition of a record may be deleted at any time, unless they become part of some official record as a result of special circumstances. These types of records include:

Personal Correspondence:

Any paper or electronic document received and not defined as business related. These records may be deleted immediately, because they are not official records: i.e. “let’s do lunch” (not a county business lunch) or “Can I get a ride home” type of note.

The above items may be deleted immediately, or maintained in “Non-Record” mail box and deleted later, just as you may trash the unwanted spam or non-county solicitation.

Official Records: Retain As Required:

E-mail messages that meet the definition of a record in the ORC are considered official records must be accounted for on the retention schedule, retained and disposed of

according to retention period on the schedule. These records fall into the following categories:

Transient/Personal Retention:

Much of the communication via e-mail has a very limited administrative value. An example, an e-mail message notifying employees of an upcoming meeting would only have value until the meeting has been attended or the employee receiving the message has marked the date and time on his/her calendar.

Transient/Personal messages never set policy, establish guidelines or procedures, certify a transaction or become a receipt. The informal tone of the messages could be compared to a communication that might take place during a telephone conversation or conversation in an office hallway. These types of records are usually personal/transient documents and can be found under schedule number GS 2010-37 (D).

Intermediate Retention:

E-mail messages that have more significant administrative, legal and/or fiscal value but are not scheduled as transient or permanent should be categorized under other appropriate record series. We currently use three other retention types for e-mails/correspondence on our General Schedule for Stark County Department/Agencies. They are defined below:

Executive Correspondence: Correspondence of the head of an agency dealing with significant aspects of the administration of their offices. It includes information concerning agency policies, procedures, program, fiscal and personnel matter. The schedule number is GS 2010-37(A) on the General Schedule.

General Correspondence: Correspondence (letters & memos) also correspondence from various individuals, companies, and organizations information pertaining to agency and legal interpretations and other miscellaneous inquiries. This correspondence is informative (it doesn't influence agency policy). The schedule number is GS 2010-37(B) on the General Schedule.

Routine Correspondence: This type of correspondence is usually referral letters, requests for routine information or publications provided to the public by an agency which are answered by standard form letters. The schedule number is GS 2010-37(C) on the General Schedule.

Permanent Retention:

E-mail messages that have significant administrative, legal and/or fiscal value and are scheduled as permanent also should be categorized under the appropriate record series. They may include the following:

Minutes of meetings, transactions of personnel actions, and agency policies, and resolutions approved by a board that oversees departments/agencies. These types of records should be kept as a record that requires permanent retention.



Best Practices for Managing E-mail:

We all must understand that e-mail users (here in Stark County) should be aware that e-mail messages are often widely distributed to a number of various recipients. Determining which individual maintains the record copy of the message, i.e. the original message should be retained per the retention schedule, is vital to e-mail management. If the holder of the record copy is not identified and aware of his/her responsibility, the agency may find that no one retains the message or that everyone retains the message. We cannot have these scenarios for users in Stark County departments/agencies.

For example, agency policy documents which are transmitted to multiple recipients via our e-mail system should not be retained by each recipient beyond his or her need for this information. The record copy responsibility is established as the person who is the creator of the e-mail from a particular agency/office for the retention period. Prompt deletion of duplicate copies of e-mail messages from an e-mail system makes the system as a whole much easier to manage and reduces disk space consumed by redundant information.

Filing:

Non-transitory/personal e-mail messages should be filed in a way that enhances their accessibility and facilitates records management tasks. Stark County agencies should set up or modify e-mail systems to facilitate records management and appropriate filing systems. Procedures and configurations will vary according to Stark County agencies needs and particular hardware and software in use.

In addition to the IN and OUT boxes that come with an e-mail system, we also have the option of creating other “Folders” and “Subfolders”. After brief periods in your IN-OUT boxes, messages should be transferred to other folders, based on retention requirements listed in this best practice.

Employees should be responsible for classifying messages they send or receive according to content, and the folder/directory structure and established record series.

Subject Lines: Fill in the subject line on your E-mail both to help your recipient identify and file messages, and to help you file your OUT box messages that must be retained for its retention period. Subject lines should be as descriptive as possible.

The following are some examples of poor and good subject lines for the same message...

Poor or confusing subject lines	Better, descriptive subject lines
“helpful info”	“contact info”
“report”	“quarterly financial report”
“minutes”	Jan. 2000 board minutes”
“important”	“revised admin. Procedures”
“today”	“lunch plans today”
“news”	“new agency head appointed”

Storage of E-mail:

It is recommended that Stark County departments/agencies explore two (2) options when retaining records from an e-mail system: on-line storage and off-line storage (Groupwise users will only be able to use on-line because of the configuration of the system). It is critical to remember that messages only have to be retained and stored for as long as the

retention schedule requires. Very few messages must be maintained for a long period of time or permanently. Messages that need to be retained for six months should be relatively easy to maintain on the current system and recorded on a records destruction schedule for approval from Records Commission to delete those messages. Messages that need to be retained permanently (very few) should be maintained in off-line storage or printed and filed in an appropriate filing system. The bulk of your e-mails will need other considerations.

Each of these options carries with it benefits and disadvantages and may be affected by your department/agency's information technology environment. In all these scenarios it is important to incorporate metadata considerations into your storage decision. (In this context metadata refers to information such as sender, recipient, date, routing, subject lines, system information and manuals, etc.).

On-line Storage:

On-line storage is defined as storage of e-mail messages, metadata, and attachments in an e-mail system that is currently being used at any Stark County department/agency.

Advantage of on-line storage is the e-mail(s) maintains full functionality of the message, and allows users to recall the message at any time for reference or responding.

Disadvantage of on-line storage is the potential cost and effects of storage on the performance of the e-mail system. Any solution to e-mail retention which includes on-line storage should be done only after consultation with the agency information resource manager and the network administrator.

Off-line Storage:

Off-line storage is defined as the storage of e-mail messages, metadata, and attachments outside of an electronic record-keeping environment. The clearest example of this type of storage is to simply print out an e-mail message to paper, with its contextual information and attachments in place, for filing within an existing filing system for your department/agency.

Off-line storage dramatically reduces the functionality, in that e-mail messages are no longer searchable or retrievable in electronic form. However, off-line storage offers users the ability to integrate the filing of records in e-mail systems within existing hard-copy filing systems in your department/agency. Any e-mail messages, metadata, and attachments stored off-line should be done in a manner consistent with your department/agency practice.

E-mail Messages and the Rules of Evidence:

Stark County departments/agencies records officers should be familiar with both state and federal "rules of evidence: requirements. Records maintained in electronic information systems, including e-mail systems, courts concentrate on assurances that records, and the systems in which the records are created and maintained, are reliable. The reliability of the process or system used to produce records, not the type of media or technology used, determines the admissibility of records in evidence. The federal rules of evidence place the burden for the identification of relevant records on the records creator.

At a minimum, agency personnel should ensure the following:

- e-mail systems used to create, receive and maintain e-mail messages have full, complete, and up-to-date documentation
- e-mail systems follow all recommendations for system security
- complete backups are regularly and consistently performed
- e-mail system retains all data and audit trails necessary to prove its reliability as part of the normal course of department/agency business
- the record copy of a message is identified and maintained appropriately
- back-up procedures should be coordinated with disposition actions so that no copies of records are maintained after the retention period for the records expired

Department/Agency records officers need to plan for records maintenance and record copy responsibilities for the records system to meet requirements for reliability and legal records dispositions.

The e-mail system must allow the server administrator to prevent destruction of records for legal and/or audit purposes.

Access:

A major challenge for department/agency records officers is to guarantee that records maintained in electronic information systems are accessible and usable for the entire length of the retention period. Rapid changes and enhancements to both hardware and software compound our challenge. Many e-mail systems have limitations in storage space that cause operational problems when messages are stored in the system beyond a specific period (sixty or ninety days). Procedures should be in place to transfer records from the e-mail system to another electronic records keeping system to meet retention requirements.

Messages should be maintained in a format that preserves contextual information (metadata) and facilitates retrieval and access.

The system should allow deletion of messages once the retention period expires.

Responsibility:

Stark County departments/agencies should define roles and responsibilities of department/agency personnel on how to carry out their role in records management and ensure compliance with agency procedures and Ohio law. Unauthorized users should not be able to access, modify, destroy or distribute records.

Agency administrators, agency employees, records officers, information technology (IT) managers and server administrators share responsibility for managing electronic records. Departments/Agencies should clearly identify the roles of each; adopt procedures, train staff and monitor compliance on a regular basis. The creator or recipient should make decisions regarding messages. The department/agency should take appropriate measures to preserve data integrity, confidentiality and physical security of e-mail records.

We all must work together to make sure that we are complying with this best practice and to work together to ensure that our records are maintained and compliant with enforceable statutes.

